

REMARKS

Currently, claims 1-47 remain pending in the present application, including independent claims 1, 28, and 47.

In the Office Action mailed October 19, 2005, claims 1-47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen et al. (US Patent No. 5,990,377). However, it is respectfully submitted that Chen does not disclose or render obvious a textured airlaid fibrous web in which the percentage of composition of material that makes up the peaks is the same as the percentage of composition of material that makes up the valleys and the web height is at least 25% greater than the average caliper of the web.

Independent claim 1 of Applicants' disclosure calls for the percentage of composition of material that makes up the peaks to be the same as that of the valleys. In Chen, the percentages of composition are different between the peaks and valleys. Indeed, if Chen were modified so that the percentage of composition of material making up the upper most portions 3 was the same as the percentage of composition of material making up the depressed regions 4 the entire purpose of Chen and its principle of operation would be frustrated.

Chen is specifically directed towards an improved web that provides a clean, dry feel of the skin of the wearer and also allows for rapid depth wide transport of liquid through the web into an underlying absorbent core (see Chen at column 2, lines 19-25). Chen seeks to achieve this goal by having the upper most regions 3 include a greater percentage of composition of hydrophobic matter than the depressed regions 4. In this manner, liquid will be removed from the upper most regions 3 and transported therefrom

so as to provide a dry touch or dry feel to the upper most regions 3. If the depressed regions 4 included the same amount of hydrophobic material as the upper most regions 3, liquid would be repelled therefrom and would potentially be transported back to the upper most regions 3 or onto the skin of the wearer.

Chen explicitly states that the depressed regions 4 should have a “significantly” lower amount of hydrophobic matter in order to achieve the stated goals of the reference. In contrast, claim 1 of Applicants’ application calls for the peaks and valley to have the same percentage of composition of material in their make up. Independent claim 1 of Applicants’ application calls for a web that performs and operates differently than that in Chen because it does not call for a web in which a “significantly” lower amount of hydrophobic amount may be present in the valleys while a greater amount of hydrophobic matter is present in the peaks. Thus, it is respectfully submitted that independent claim 1 patentably defines over Chen.

In addition, the Examiner indicated that Chen “does not specifically disclose the web height is 25% greater than the average caliper of the web.” However, while citing *In re Aller*, 105 USPQ 233, the Examiner stated that “[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the claimed relationship between the web height and web caliper since where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.” *In re Aller* stands for the principle that the discovery of an optimum value of a variable in a known process is normally obvious. *In re Antonie*, 559 F.2d 618, 620, 195 USPQ 6, 8-9 (CCPA 1977). Here, the relationship between web height and average caliper of the web would not have been obvious. In

order to render independent claim 1 obvious, Chen must teach or suggest to one having ordinary skill in the art the desirability of modifying Chen so as to achieve the structure set forth in independent claim 1 of Applicants' application. Only through improper hindsight analysis with the benefit of having Applicants' disclosure could one have thought to modify Chen so that the the web height is 25% greater than the average caliper of the web. As such, independent claim 1 patentably defines over the Chen.

Applicants also traverse the §103(a) rejections to claims 28 and 47 for essentially the same reasons as discussed above with respect to claim 1 and submit that claims 28 and 47 define over Chen and are in condition for allowance.

As stated, the Office Action of October 19, 2005 also rejected the dependent claims in the present application (claims 2-27 and 29-46) under 35 USC § 103(a) in view of Chen. These claims depend either directly or indirectly from independent claims 1 and 28 and recite the present invention in varying scope. Applicants have herein discussed the cited reference in relation to claims 1, 28, and 47. The dependent claims 2-27 and 29-46 are similarly distinguishable not only because of the patentability of the independent claims but also because of the combination of the subject matter of each of the dependent claims with their independent claim which makes each claim further distinguishable, and which is not taught or suggested by the cited reference, singly or in combination.

Applicants' respectfully submit that all claims are allowable and that the application is in condition for allowance. Favorable action thereon is respectfully requested. The Examiner is encouraged to contact the undersigned at her convenience

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should she have any questions concerning this matter or require any additional information.

Respectfully submitted,

DORITY & MANNING,
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